

BILAL A. ESSAYLI
First Assistant United States Attorney
ALEXANDER B. SCHWAB
Assistant United States Attorneys
Acting Chief, Criminal Division
IAN V. YANNIELLO (Cal. Bar No. 265481)
GREGORY W. STAPLES (Cal. Bar No. 155505)
DANIEL H. WEINER (Cal. Bar No. 329025)
Assistant United States Attorneys
1400/1500 United States Courthouse
312 North Spring Street
Los Angeles, California 90012
Telephone: (213) 894-3667/3535/0813
Facsimile: (213) 894-0142
E-mail: ian.yanniello@usdoj.gov
greg.staples@usdoj.gov
daniel.weiner@usdoj.gov

Attorneys for Plaintiff
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DURK BANKS, et al.

Defendants.

No. CR 24-621(B)-MWF

REPLY IN SUPPORT OF GOVERNMENT'S
MOTION TO EMPANEL AN ANONYMOUS
JURY

Plaintiff United States of America hereby files its Reply in
support of its Motion to Empanel an Anonymous Jury (Dkt. 235).

//

//

1 This Reply is based upon the attached memorandum of points and
2 authorities, the files and records in this case, and such further
3 evidence and argument as the Court may permit.

4 Dated: November 10, 2025

Respectfully submitted,

5 BILAL A. ESSAYLI
6 First Assistant United States
Attorney

7 ALEXANDER B. SCHWAB
8 Assistant United States Attorney
Acting Chief, Criminal Division

9
10 /s/

11 IAN V. YANNIELLO
12 GREGORY W. STAPLES
DANIEL H. WEINER
Assistant United States Attorneys

13 Attorneys for Plaintiff
UNITED STATES OF AMERICA
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MEMORANDUM OF POINTS AND AUTHORITIES

Juror confidentiality is just one of the security measures this Court should adopt to ensure a fair trial, prevent improper attempts to influence jurors, and to otherwise protect the judicial process. Defendants do not meaningfully grapple with the facts that support anonymity --- e.g., the violent history of defendants and their associates, OTF associates' willingness to use violence against OTF's and defendant Banks' rivals, the witness tampering that has already occurred in this case, and defendant Banks' contempt for the judicial process, including his obstruction of an investigation into his clandestine, unmonitored jail communications. Instead, defendants brush them aside as "speculation and mischaracterization," and minimize the consequences of defendants' own words and conduct. (Opp. at 3.)

The crux of defendants' opposition is what it fails to contest or even mention: that defendant Banks instructs his willing associates to "hunt" his rivals; that defendants Banks, Wilson, and other OTF associates have already tried to influence cooperating witness testimony; and that OTF affiliates and supporters have already shown their willingness to threaten those involved in this high-profile trial. These facts strongly weigh in favor of heightened measures to safeguard the jury's fact-finding mission and secure juror safety. Moreover, defendants do not contest the well-established law that a thorough jury questionnaire and a neutral explanation for confidentiality adequately protect the right to meaningful voir dire. At bottom, withholding a limited set of juror information from both parties, coupled with Ninth Circuit-approved

1 proactive measures, are constitutionally permissible steps to ensure
2 a safe and fair trial.

3 **I. AN ANONYMOUS JURY WILL PROTECT THE JURY'S FACT-FINDING**
4 **MISSION AND ENSURE JUROR SAFETY**

5 Defendants attempt to isolate and downplay each of the
6 non-exhaustive factors this Court considers when evaluating the need
7 for juror anonymity. Their analysis misses the mark at each turn.

8 *First*, defendants contend that defendant Banks "has no
9 affiliation with organized crime" and that OTF "is a record label and
10 professional entity --- nothing more." (Opp. 8, 12.) The government
11 does not dispute that OTF is, in part, a legitimate business
12 operation. But OTF's and defendant Banks' public success does not
13 contradict or undermine the material facts showing the organized
14 nature of certain OTF associates' criminality and violence.
15 Indeed, defendants do not contest that two shooters charged with
16 murder in the Northern District of Illinois discussed payment from
17 OTF and defendant Banks following the execution of a Chicago gang
18 member¹ (Mot. at 9); that OTF associates --- including the defendants
19 in this case --- act at defendant Banks' direction and with his funds
20 to "hunt" and exact revenge on OTF's rivals (Mot. at 8); and that
21 defendants and other OTF associates have violent criminal histories
22 (Mot. at 6). Rather, defendants claim that these facts are too
23 attenuated to demonstrate a risk to juror safety and impartiality.
24 (Opp. at 9.) As explained in the government's motion, these facts
25 demonstrate the capacity of defendants, OTF's associates and/or their

26
27 ¹ The government's opposition to defendant's motion to exclude
28 Rule 404(b) evidence provides a more robust discussion of the
defendants' and OTF's connection to organized violence, which is
incorporated herein by reference. (See Dkt. 274.)

1 supporters to intimidate those who may pose a risk to the liberty of
2 OTF members, including jurors who will render a verdict in this
3 case.²

4 *Second*, defendants proclaim that there is “**no risk** of
5 interference with witnesses and the judicial process.” (Opp. at 12)
6 (emphasis added). But defendants fail to mention the actual
7 interference that has occurred in this case: OTF associates’ threats
8 to, and intimidation of, suspected government witnesses (see Mot. at
9 11-12 in under seal filing detailing events), and defendant Banks’
10 contempt for the judicial process as demonstrated by his obstructive
11 conduct at the MDC (Mot. at 13). Instead of analyzing these tangible
12 facts, defendant Banks claims that his explicit disdain for
13 cooperating witnesses --- “I hate all rats” --- is immaterial to the
14 Court’s analysis, since unrelated public figures have purportedly
15 made similar comments. (Opp. at 13.) But the totality of facts
16 presented by the government show that defendants and their OTF
17 associates have demonstrated their willingness and capability to
18 interfere with this trial and impair the jury’s factfinding mission.

19 *Third*, defendant’s argument that “media attention [] cannot
20 alone justify an anonymous jury” (Opp. at 15) misconstrues the
21 government’s argument. This Court’s analysis considers five
22 non-exhaustive factors and is a “peculiarly context-specific
23 inquiry.” United States v. Dinkins, 691 F.3d 358, 371 (4th Cir.
24 2012). Both parties agree that this case has and will continue to

25
26 ² Defendants assert that there is no risk to jurors because
27 defendants and their OTF associates identified in the government’s
28 motion are in custody. (Opp. at 12.) As described below, this
contention wholly ignores the loyalty of OTF’s supporters and the
ability of in-custody defendants to circumvent rules designed to
monitor jail communications.

1 garner significant media attention. (Mot. at 15.) And it is
2 undisputed that the publicity has already led to attempts to
3 intimidate individuals connected to this case. (Mot. at 16.)³ It is
4 therefore non-speculative that defendants, their affiliates, and/or
5 their supporters pose a risk to the integrity of the jury's
6 factfinding mission.⁴

7 Finally, defendants contend that, although the protection of
8 juror information from the public and media may be appropriate, an
9 anonymous jury "impairs the defense's ability to conduct meaningful
10 voir dire, undermining the right to an impartial jury under the Sixth
11 Amendment."⁵ (Opp. at 17.) But potential jurors do not lose their

12
13 ³ Defendants state they intend to file a motion to dismiss the
14 Indictment based on the timing of the government's disclosure of the
15 threats to the magistrate judge and an AUSA. (Opp. at 8 n.3.)
16 Defendants' assertion that the government impermissibly withheld
discoverable information from the defense is categorically false. To
the extent defendants pursue this frivolous litigation, the
government will provide a thorough response at that time.

17 ⁴ Defendants' citations to other high-profile cases that did not
18 empanel an anonymous jury (Opp. at 16) similarly miss the mark. The
19 government does not contend that the high-profile nature of this case
alone warrants additional juror protection. Rather, the totality of
the facts analyzed by the government in its motion support its
requested measures.

20 Defendant Banks also repeatedly argues that he cannot be the
21 source of a threat to jurors because he is in custody. The
22 contention ignores (1) his own violations of MDC rules concerning his
23 use of other inmates' PINs to make calls, and his possession and
24 subsequent attempt to destroy a contraband Apple Watch with cellular
25 capabilities; and (2) the fact that threats from his supporters would
be just as damaging to the juror --- and the trial itself --- as
threats from a defendant. Any threat will undermine the trial.
Preventing the leaking of jurors' personal identifying information is
a paramount concern in a case where supporters have already made
threats to a magistrate judge and a prosecutor.

26 ⁵ Although defendants claim that the government's citation to 28
27 U.S.C. § 1863 is "misplaced," numerous circuit courts have cited the
28 statute as a basis to empanel an anonymous jury, see, e.g., United
States v. Dinkins, 691 F.3d 358, 371 (4th Cir. 2012). And, in any
event, defendants do not dispute that the Ninth Circuit has

(footnote cont'd on next page)

1 expectation of privacy when they are summoned into court. See
2 Brandborg v. Lucas, 891 F.Supp. 352, 357 (E.D. Tex. 1995). A
3 "determination of the relevancy of the inquiry [into juror's
4 backgrounds] and a balancing of the competing rights [to privacy]
5 must be performed by the court. While the parties have attorneys to
6 champion their rights, the court must protect the privacy rights of
7 the prospective jurors." Id. at 356. Defendants do not offer a
8 single concrete example of how they would be prejudiced by defendants
9 and their counsel not knowing the name and home address of a juror or
10 the name or address of the juror's employer. Not one of these facts
11 goes to bias or impartiality. The parties will be provided with the
12 jurors' city and occupation, in addition to other non-identifying
13 facts concerning the jurors, such as prior contacts with, or
14 relationships with, law enforcement. There is no need for personal
15 identifying information, particularly considering the use of a
16 thorough jury questionnaire. See United States v. Barnes, 694 F.2d
17 121, 141 (2d Cir. 1979) ("If the giving of names and addresses had
18 been required so that investigation could have been made in the
19 neighborhood or from their families as to their characteristics, any
20 semblance of an impartial jury would have been destroyed. Fear of
21 retaliation against them or members of their families would
22 inevitably have been uppermost in their minds during the
23 deliberations.").⁶

24 _____
25 repeatedly affirmed the constitutionality of such measure, see, e.g.,
United States v. Shryock, 342 F.3d 948 (9th Cir. 2003).

26 ⁶ Indeed, "[n]either the prosecution nor the defense has the
27 right to have voir dire conducted in such a way as to mold the jury
28 in a way that the jury will be receptive to counsel's case." United
(footnote cont'd on next page)

1 Finally, defendants' counsel concede that while keeping the
2 jurors' personal identities anonymous to the public may be
3 appropriate, counsel should still be given access to the personal
4 identifiers. That presents an unacceptable risk of unintended
5 disclosure given the lack of probative value in jurors' personal
6 information. The risk of unintended disclosure is "certainly
7 possible in court proceedings." Brandborg, 891 F.Supp. at 354, n. 4
8 (citing Cox Broadcasting Corp. v. Cohn, 420 U.S. 469 (1975)).

9 Defendants offer no explanation of how, sitting at counsel table with
10 their clients while conducting voir dire, they can assure that their
11 clients will not discover the names of the jurors. Given the risk to
12 jurors and their families, and the trial process itself, defendants
13 present no persuasive reason for their counsel to have the names and
14 addresses of the potential jurors.

15 **II. CONCLUSION**

16 The government respectfully requests that this Court empanel an
17 anonymous jury to protect prospective jurors and prevent any
18 interference with the judicial process. Specifically, the government
19 requests that the names, addresses, and specific places of employment
20 not be revealed to either party.

21
22
23
24 States v. Padilla-Valenzuela, 896 F.Supp. 968, 972 (D. Az. 1995).
25 This is because "the purpose of the voir dire is to ascertain
26 disqualifications, not afford individual analysis in depth to permit
27 a party to choose a jury that fits some mold that [counsel] believe
28 appropriate to [counsel's] case." Id. (citing Schlinsky v. United
States, 379 F.2d 735, 738 (1st Cir. 1967)).